

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE: . Case No. 05-17923 (ASH)  
DELTA AIR LINES, INC., et al, . (Jointly Administered)  
Debtors. . New York, New York  
Debtors. . Wednesday, April 25, 2007  
Debtors. . 2:31 p.m.

TRANSCRIPT OF CONFIRMATION HEARING  
BEFORE THE HONORABLE ADLAI S. HARDIN  
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES: (On the Record)

10 For the Debtors: Marshall S. Huebner, Esq.  
DAVIS, POLK & WARDWELL  
450 Lexington Avenue  
New York, New York 10038

11

Michael E. Wiles, Esq.  
Richard F. Hahn, Esq.  
DEBEVOISE & PLIMPTON, LLP  
919 Third Avenue  
New York, New York 10022

For the Official Committee  
of Unsecured Creditors: David H. Botter, Esq.  
Lisa G. Beckerman, Esq.  
AKIN, GUMP, STRAUSS, HAUER  
& FELD, LLP  
590 Madison Avenue, 20th Floor  
New York, New York 10022

19 (Appearances continued)

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1 APPEARANCES: (Continued)

2 For the Ad Hoc Committee  
3 of KCAB Bondholders:

John K. Cunningham, Esq.  
WHITE & CASE, LLP  
Wachovia Financial Center  
200 South Biscayne Boulevard  
Suite 4900  
Miami, Florida 33131

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## Summary of Plan Changes

22

1 plan containing these minor changes, our proposed form of  
2 confirmation order, a brief in support of confirmation, a reply  
3 to the remaining non-aircraft objections, and while there are  
4 no longer anymore, a reply to the remaining aircraft  
5 objections. We also filed the Coleman, Blackstone, and  
6 Sullivan declarations.

7 And I should note, before I forget, I would like to  
8 move those three declarations into evidence, which I --

9 THE COURT: Any objection?

10 (No verbal response.)

11 THE COURT: Received.

12 MR. HUEBNER: Thank you, Your Honor.

13 (Coleman, Blackstone, and Sullivan Declarations received in  
14 evidence.)

15 MR. HUEBNER: In addition to certain technical and  
16 ministerial fixes, we have made the following modifications to  
17 the plan -- and I should also confirm on the record that there  
18 are no further changes at all to the plan since Monday's black-  
19 line was filed.

20 We've removed the prohibition against allowing federal  
21 penalty claims.

22 Certain modifications were made to bring the plan up  
23 to date with the March 2nd, 2007 modification to the Comair --  
24 to the collective bargaining agreement between Comair and the  
25 airline pilots in the service of Comair, represented by ALPA.

1 are easier to figure out. CVG is the official airport code.

2 THE COURT: I'm greatly relieved.

3 (Laughter.)

4 THE COURT: Thank you, sir.

5 Mr. Cunningham?

6 MR. CUNNINGHAM: Thank you, Your Honor. John  
7 Cunningham, of White & Case, on behalf of the Ad Hoc Committee  
8 of Kenton County Bondholders.

9 Your Honor, I'm pleased to announce to the Court and  
10 to the parties here in the courtroom that I will be mercifully  
11 and comparatively brief, compared to what I can only describe  
12 as the opening argument of Mr. Huebner on our objection. I can  
13 also report to Your Honor that we have, in fact, filed a notice  
14 of appeal with respect to Your Honor's order of yesterday, so  
15 jurisdictionally, that is with the District Court, so I will  
16 not be trying to rehash any of the arguments that were a part  
17 of last week's hearing.

18 THE COURT: All right.

19 MR. CUNNINGHAM: That being said, Your Honor, I do  
20 have the housekeeping matter, for purposes of the record, on  
21 what just gets admitted into evidence. We are not looking to  
22 admit a single piece of evidence other than the binders that we  
23 offered into the record at last week's hearing, and I have  
24 those binders. We tried to get Delta to agree to them. They  
25 agreed to them last week. Again, there are copies of the

1 indenture, the guarantee, the lease, and the like. There were  
2 sixteen exhibits, Your Honor. I don't know if today they have  
3 objection to having it be part of the record today, but I would  
4 like to have those be formed as part of the record if the Court  
5 takes judicial notice of what was up last week.

6 There were also three deposition transcripts, Your  
7 Honor, one of Delta, one of UMB, the indenture trustee, and one  
8 of KCAB in which both parties designated with highlights  
9 certain portions of that transcript. It is that same binder  
10 with the same highlighted language from both us and them that  
11 we would want, again, just to form part of the record of the  
12 hearing in connection with our objection.

13 Does Delta have any objection?

14 MR. HUEBNER: Your Honor, I believe that we and UMB  
15 and KCAB expressed a view on this in e-mail exchanges, which is  
16 our view is that that was a completely different hearing about  
17 completely different things. In fact, Mr. Cunningham's e-mail  
18 asked to consolidate the records of the two hearings, which we  
19 think, frankly, is an attempt to suggest to the Court above  
20 that, really, this is one big hearing with a shared record and,  
21 frankly, a further attempt to disrupt our confirmation.

22 We're not saying the documents that we thought were  
23 legally admissible, authentic, appropriate business records,  
24 actual copies have become not so since last week. But I think  
25 we, and I believe the other parties, do disagree that we have a

1 right to take the entire evidentiary record of a different  
2 hearing with witnesses and the possibility of witnesses and the  
3 like, and just say, that's all also the record of the  
4 confirmation hearing. So, you know, I'm not the world's  
5 biggest expert on litigation procedure, but it's not at all  
6 clear to me why, merely because we did not disagree with their  
7 admissibility to a different hearing on which both an order and  
8 an opinion has been entered, that he's allowed to -- most of  
9 these documents, Your Honor, he never even referred to in last  
10 week's hearing. I went -- when he e-mailed me, I didn't just  
11 say no. I opened the binder and I read them. And there are  
12 things that he never referred to, never in his pleadings, never  
13 at the hearing at all. Why the record of this hearing, which  
14 again, was requested for the first time I believe yesterday,  
15 should now have all his documents from a different hearing  
16 added into it, I'm just not sure is procedurally at all  
17 appropriate.

18 MR. CUNNINGHAM: Your Honor, the reason it's relevant  
19 is because his argument is that the settlement is incorporated  
20 into the plan. And it's kind of a chicken-and-egg problem that  
21 I have. I recognize Your Honor signed a settlement order. But  
22 if he stands there and says it's now part of the plan, I don't  
23 know how for record purposes I can now stand here if that same  
24 settlement is not. These are not controversial documents.  
25 They didn't object last week. It's just for the record. I

1 don't see any prejudice on their end. And I will be referring,  
2 at least to a couple of the statements that were made in the  
3 transcript, it will be very short but they are admissions that  
4 I think are relevant, Your Honor.

5 THE COURT: Okay. Well, I don't know that it really  
6 makes any difference other than to burden the record. On the  
7 other hand, I take it that to the extent that you feel that  
8 you're aggrieved by the CVG settlement and my order approving  
9 it, and that that is a material ground for your opposition, in  
10 fact, it's the principal ground for your opposition, I believe,  
11 to the plan and to confirmation of the plan, I will deem the  
12 same materials to be part of the record for this plan. I think  
13 it makes no material difference, but if that -- if you think  
14 that's necessary to preserve the record that you wish to make  
15 and argue in the Appellate Court, I will grant that.

16 MR. CUNNINGHAM: I appreciate that, Your Honor. Thank  
17 you.

18 MR. HUEBNER: Could I just ask, then, that -- we've  
19 been clear on the record that we believe that these are  
20 separate hearings. But if his entire binder -- and, in fact,  
21 we said whatever you want to use, just tell us and I'm sure  
22 we'll be fine with it. He decided not to answer any of those  
23 e-mails. But if he's going to move his entire binder into the  
24 record, then I want the record to be very clear, and we do not  
25 agree that it is appropriate, and we believe these hearings

1 have completely different records, and I think we have no  
2 choice since, if we're using last week's stuff, to ask that to  
3 the extent relevant, we ask to preserve any of our rights that  
4 all our binders from last week be able to be used in the same  
5 symmetrical way.

6 THE COURT: Granted. Granted.

7 MR. CUNNINGHAM: Of course. No objection.

8 THE COURT: Okay.

9 MR. CUNNINGHAM: Your Honor, again, to go briefly,  
10 rather than take his points in order, what I did to just  
11 expedite things was to take his reply and the headings he used,  
12 go to the points, I'll make my points, if Your Honor has  
13 questions we can go through it.

14 The first one was an issue of standing saying I don't  
15 have standing to even be here, Your Honor. That argument was  
16 basically tied to the guarantee that the trustee had entered  
17 into, and the fact that the trustee filed the proof of claim.  
18 Your Honor, as I did mention last week, Bankruptcy Rule  
19 3003(c)(5) provides that an indenture trustee file a protected  
20 proof of claim on behalf of all bondholders. He's not filing  
21 it on his own. He's filing for the benefit of the bondholders.  
22 I do believe we are a creditor. I believe we have -- we're a  
23 party in interest under Section 1109. We have the right to be  
24 heard. Clearly, if the settlement is being incorporated into  
25 the plan which is their words in their settlement motion, our